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International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined twenty-second and twenty-third periodic reports of Ukraine

Addendum

Information received from Ukraine on follow-up to the concluding observations*

[Date received: 29 August 2017]

* The present document is being issued without formal editing.

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Information on implementation of the recommendations in paragraphs 16 and 18 of the concluding observations issued following consideration of the twenty-second and twenty-third periodic reports of Ukraine on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination

In the light of its general recommendation No. 7, the Committee recommends that the State party ensure that its legislation is applied effectively, in full compliance with the provisions of article 4 of the Convention with regard to organizations promoting racist hatred and propaganda.

1. Under the Ukrainian Constitution, the establishment and activities of political parties and voluntary organizations whose purposes or actions are aimed at eliminating the independence of Ukraine, changing the constitutional order by violent means, violating the sovereignty and territorial integrity of the State, undermining its security, unlawfully seizing State power, spreading propaganda for war and violence, inciting inter-ethnic, racial or religious enmity, or encroaching on human rights and freedoms and public health are prohibited; the prohibition of activities of citizens' association takes place only through judicial procedures (Constitution, art. 37, first and fourth paras.). Article 5 (3) and article 21 of the Political Parties in Ukraine Act and article 28 of the Voluntary Associations Act also contain corresponding legal provisions.

The Committee recommends that the State party take measures to ensure an effective application of article 161 of the Criminal Code, by removing requirements that prevent its application. It recommends that the State party ensure that complaints of racial discrimination are properly registered by the police as such and duly investigated and that the final decision as to whether the crime has a discriminatory racial motive is left to the appreciation of the courts.

2. The Central Investigation Department of the Ukrainian National Police carries out supervision of pretrial investigations by the national police units' investigation services in criminal cases initiated for crimes motivated by intolerance, in Kyiv, the provinces, the Autonomous Republic of Crimea and Sevastopol. Specific officers are appointed to work in the units' investigation services for this purpose, in accordance with corresponding orders and assignments; they monitor criminal investigations of this type and provide information to the Central Investigation Department on this question.

3. The results of the work done by the Central Investigation Department in this field are published annually on the official site of the Ukrainian National Police.

4. Also, the Central Investigation Department, together with the higher education establishments of the Ukrainian Ministry of Internal Affairs, has developed a programme for primary vocational training of police officers recently recruited as investigators. The programme sets out an academic and thematic model to improve the qualifications of police investigators. One of its themes, entitled "Tolerance and non-discrimination in police work", draws attention to the concepts and specificities of pretrial investigation work in relation with crimes motivated by intolerance.

5. The Ukrainian National Police, together with voluntary organizations, have produced information posters on the forms discrimination can take, the related penalties and means of legally defending against it, and they have posted them at every local National Police unit.

6. At the initiative of the Central Investigation Department, Order No. 1377 of the Ministry of Internal Affairs of 6 November 2015, which set out instructions for police units to keep a single register of statements and complaints of crimes and other incidents, has been amended by the Ministry so that the opinions of crime victims can be recorded when their complaints are registered and so that the legal and criminal qualification of the acts in question are recorded in the single register of pretrial investigations. The official form for receiving statements about criminal offences or offences that are in preparation (under annex 3 to the instructions) have been amended with a new item to be filled in with the

circumstances in which the crime was committed. The circumstances may point to a motive of intolerance (based for example on race, ethnic or religious grounds or beliefs).